

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 00-12187-RWZ

JOSEPH JABIR POPE

v.

JOHN MARSHALL

ORDER ON POST JUDGMENT MOTIONS

January 27, 2006

ZOBEL, D.J.

Petitioner sought relief from a conviction in the state court by petition for a writ of habeas corpus filed in October 2000. After some initial skirmishing, the court denied respondent's motion to dismiss on statute of limitations grounds and, after extensive briefing on the merits, this court denied the petition in July 2002. Judgment was entered accordingly. Petitioner moved for reconsideration which motion was denied. An appeal followed; this court granted a certificate of appealability and a motion to proceed in forma pauperis.

Thereafter, in October 2002, the Court of Appeals denied petitioner's motion for remand on the ground that this court had addressed and rejected all of petitioner's arguments. In January 2004 Mandate of the Court of Appeals issued which affirmed the judgment of this court.

Nearly 18 months later, on May 10, 2005, Petitioner moved for relief from judgment under Rule 60 (b), Fed. R. Civ. P., and on September 20, 2005, he added a

motion for an evidentiary hearing. Although petitioner invokes a rule that the court may consider any change in law which has occurred since the trial, the motion does not point to any such change nor does he provide any other reason for reconsidering this well considered case. To the extent that petitioner does raise new issues, they do not concern “the manner in which the earlier habeas judgment [was] procured,” and the motion is effectively a successive petition and barred by the statute, 28 U.S.C.

§2244(b)(3). See Rodwell v. Pepe, 324 F.3d 66, 67 (1st Cir. 2003).

The motion for relief from judgment is denied as is the motion for an evidentiary hearing.

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DATE

/s/ Rya W. Zobel  
RYA W. ZOBEL  
UNITED STATES DISTRICT JUDGE